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October 30, 2020

BY ECF

The Honorable Ronnie Abrams
United States District Judge
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: Jennifer Eckhart v. Fox News Network, LLC, et al., Civil Case No. 1:20-cv-05593

Dear Judge Abrams,

I am writing with regard to Michael Willemin's letter dated October 28, 2020 informing the Court of Plaintiff Jennifer Eckhart's intention to file an amended complaint. Ed Henry objects to Mr. Willemin's unilateral pronouncement of his intention to amend. Federal Rule 15 specifically provides that "a party may amend its pleading once as a matter of course" and otherwise "a party may amend its pleading only with the opposing party's written consent or the court's leave." As this Court knows, Ms. Eckhart filed her original complaint on July 20, 2020. She then filed her first amended complaint as of right on September 11, 2020. Having filed that amendment as of right, any other amendment requires the opposing party's written consent or leave of the court, neither of which Ms. Eckhart has obtained.

Mr. Willemin suggests in his letter that the Court already authorized the filing of another amended complaint in the October 7 conference. However, although I understand Mr. Willemin asked the Court to confirm that the filing of the Second Amended Complaint (filed to effectuate the severance from Cathy Areu) would not impact his ability to file another amended complaint, I am not aware of any order permitting the Plaintiff to ignore the requirements of Federal Rule 15. Mr. Willemin should have reached out to defense counsel to obtain their position on an

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October 21, 2020

amendment. Moreover, the Court should be able to determine whether an amendment would be futile or should be permitted.

If Ms. Eckhart wants to amend the complaint again, she should be required to file a motion seeking leave to amend.

Thank you for your consideration.

Respectfully submitted,

/s/ Catherine M. Foti

cc: All counsel of record (via ECF)